IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

Crl.MC.No. 2055 of 2007()

CMP.5055/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOLLAM

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PETITIONER:

VIJAYAN, S/O. MRITHEWNJAYAN,
KARTHIKA VEEDU, PEZHUMTHURUTH MURI,
MANROETHURUTH VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.C.R.SIVAKUMAR

RESPONDENTS:

THE STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
EAST KALLADA POLICE STATION, KOLLAM DISTRICT,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/07/2007, ALONG WITH CRMC NO. 2056 OF 2007 CRMC NO. 2060 OF 2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. Nos.2055, 2056 & 2060 OF 2007

Dated this the 3rd day of July, 2007

ORDER

The petitioners assail the identical condition imposed on them by the learned Magistrate in three cases when boats which were allegedly involved in the transportation of river sand were directed to be released to the petitioners concerned. The petitioners concerned have only one grievance – against Condition No.2 imposed on them. They contend that no allegation under the Kerala Protection of River Banks and Regulation of Removal of Sand Act has been raised against them. The only allegation raised is under the Mines and Minerals Act. River sand does not come within the purview of the said Act. The learned counsel only contends that the identical second condition imposed - that an amount of Rs.25,000/- must be deposited in cash, may be altered and the

petitioners may be permitted to offer bank guarantee for the said amount of Rs.25,000/-. The learned counsel for the petitioners submits that considering the value of the canoes involved also, direction to deposit cash of Rs.25,000/- is not justified.

2. The learned Public Prosecutor concedes that till now no allegations have been raised under the Kerala Protection of River Banks and Regulation of Removal of Sand Act. I am, in these circumstances, satisfied that identical Condition No.2 imposed on the petitioners can be modified and it need only be insisted that they must produce bank guarantee for an amount of Rs.25,000/- instead of deposing cash as directed in the impugned orders.

3. These Crl.M.Cs. are, in these circumstances, allowed in part to the above extent. Condition No.2 imposed on the petitioners is modified to the above extent.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge